S.B.CRIMINAL MISC. PETITION NO.896/2004
(Sugan Chand & Anr. Vs. State of Raj. & Anr.)

Date of order : : 02.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.J.S. Choudhary, for the petitioners.
Mr.Ashok Upadhyay, PP for the State.

Heard the learned counsel for the petitioners as well as the learned Public Prosecutor.

The learned counsel for the petitioners states that the petitioners are police officers and police constables. They have gone to take search of the house of the complainant. Number of cases are pending against the complainant. Even Kana Ram was arrested under Section 151 Cr.P.C. and his medical was done on the same day i.e. on 23.5.2002, but no injury was found on his person. It was also stated by the learned counsel for the petitioners that they are public servant and no sanction for prosecution has been taken, therefore, continuance of proceedings against them is abuse of process of Court.

On the other hand, the learned Public Prosecutor states that the petitioners had gone to take search of the house, but they have given beating to the complainant as well as his daughter-in-law. There is ample evidence on the record against the petitioners.

I have considered the rival submissions made by the learned counsel for the parties and gone through the impugned order and the statements of Kana Ram, Manohari and Sua recorded under Section 200 Cr.P.C.

The learned Magistrate has taken cognizance against the petitioners for offences under Sections 451, 323 and 365 I.P.C. after considering the complete material on record. I do not find any ground to interfere with the impugned order.

So far as argument as to whether offence under Section 365 I.P.C. is made out or not or whether sanction under Section 197 Cr.P.C. is required or not is concerned, petitioners are at liberty to raise all these objections as well as other objection

which has been raised before this Court in this misc. petition under Section 482 Cr.P.C. before the learned trial court before the charge stage or at the time of framing charge.

Accordingly, the present misc. petition stands disposed of.

(KRISHAN KUMAR ACHARYA), J.

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